THE HON'BLE SRI JUSTICE B.PRAKASH RAO

and

THE HON'BLE SRI JUSTICE D.APPA RAO

W.A.NO.438 OF 2006

JUDGMENT: ***(Per Hon'ble Sri Justice B.Prakash Rao)***

Heard Dr.P.B.Vijay Kumar, the learned Counsel appearing for the appellant, and Sri Samineni Kishore, the learned Counsel appearing for the respondent, and at their request, the main appeal itself is being taken up for disposal.

This appeal is at the instance of the writ petitioner, who *inter alia* sought to assail the enquiry proceedings initiated against him especially framing of charge by the Enquiry Officer. Pending Writ Petition, he sought interim stay of all further proceedings in the said enquiry. But, the learned single Judge did not find valid grounds and dismissed the said application. Hence, this appeal.

Having heard the learned Counsel on either side and also on perusal of the entire material available on record, it is to be seen that prior to the appointment of the fifth respondent as Enquiry Officer, neither a show cause notice was issued to the appellant calling for his explanation nor any charges were framed by the third respondent, who is the competent authority. It is only now the fifth respondent-enquiry officer is trying to frame the charges for the purpose of enquiry. In this connection, the learned Counsel for the appellant sought to place reliance on a Division Bench

judgment of this Court in Writ Appeal No.491 of 2005, dated 13-04-2005, which was adjudicated almost in similar circumstances as that of this case and also concerning the very same relief under 10 (2)(a) of the Andhra Pradesh State Transmission Corporation Limited, Employees Discipline and Appeal Regulations (for short 'the Regulations'). In the said judgment, this Court held that the question of framing charges by the Enquiry Officer would arise only if it is preceded by a show cause notice and framing of charges by the appointing authority, and therefore, the procedure followed by the appointing authority is wholly unsustainable. *Prima facie,* we are satisfied that there are some substantial questions, which require to be gone into in the Writ Petition.

Hence, the Writ Appeal is allowed. Pending disposal of the Writ Petition, there shall be stay of all further proceedings in pursuance of the impugned charge sheet of the fifth respondent as against the appellant herein. Office is directed to post the main Writ Petition itself before the learned single judge, hearing these matters, for final hearing subject to part-heard on 07-08-2006. Meanwhile, the respondents are directed to file their counter. No costs.

(B.PRAKASH RAO, J)

25th April, 2006

(D.APPA RAO, J)

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